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Attorneys for Defendant
BAY MACHINERY CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

AMERICAN PILEDRIVING EQUIPMENT,
INC.,

Plaintiff,

v.

BAY MACHINERY CORPORATION,

Defendant.

Case No. 4:08-cv-1934-PJH

**STIPULATION AND [PROPOSED]
ORDER REGARDING MOTION FOR
SUMMARY JUDGMENT**

Plaintiff American Piledriving Equipment, Inc., (“Plaintiff”) and Defendant Bay Machinery Corporation, (“Defendant”) (collectively the “Parties”), through their undersigned counsel of record, hereby agree and stipulate as follows:

1. The September 23, 2009 hearing date for Defendant’s Motion for Summary Judgment currently set for 9 a.m. before the Court is continued to December 9, 2009 so that Plaintiff can file its

own Motion for Summary Judgment and both Parties' Motions for Summary Judgment may be heard by the Court at that time.

2. The Parties agree to move forward with the October 28, 2009 deposition of Defendant Bay Machinery so it may be completed prior to Plaintiff's filing a Motion for Summary Judgment.

3. Plaintiff will file any Motion for Summary Judgment by November 4, 2009 so the Court can hear both motions, if such a motion is filed, at the December 9, 2009 hearing date.

4. If, as a result of the Defendant Bay Machinery deposition, there is evidence which Plaintiff would like to use to support its Summary Judgment Motion, Plaintiff may add such evidence to said motion so long as it is done within a week of Plaintiff's receipt of the Bay Machinery's deposition transcript.

5. Pursuant to Local Rule 7-3, any opposition(s) to the Motion(s) for Summary Judgment will be due November 18, 2009, and any response(s) to an opposition to the Motion(s) for Summary Judgment will be due November 25, 2009.

STIPULATED TO BY:

Dated: September 18, 2009

MADSON IP

By: /s/ Craig J. Madson
CRAIG J. MADSON

Attorneys for Plaintiff
AMERICAN PILEDIVING EQUIPMENT,
INC.

Dated: September 18, 2009

SHOOK, HARDY & BACON L.L.P.

By: /s/ Kenneth Kula
KENNETH KULA

Attorneys for Defendant
BAY MACHINERY CORPORATION

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated: 10/15/09

Honorable Judge Phyllis J. Hamilton

